

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO

JAMES EVERETT SHELTON,)	CASE NO. 1:19CV00081
)	
Plaintiff,)	MAGISTRATE JUDGE DAVID RUIZ
)	
v.)	
)	
DIRECT ENERGY, LP, <i>et al.</i> ,)	<u>KAA ENERGY INC.'S MOTION FOR</u>
)	<u>JUDGMENT ON THE PLEADINGS</u>
Defendants.)	

Defendant, KAA Energy Inc. (“Defendant”), respectfully requests this Court to dismiss James Shelton’s (“Plaintiff”) claim for violation of the Telephone Consumer Protection Act, pursuant to Rule 12(C) of the Federal Rules of Civil Procedure. In support of this request, KAA would adopt, in its entirety as applicable to Plaintiff James Shelton, the Motion to Dismiss filed by Co-Defendant Direct Energy, LP, seeking dismissal via Fed. R. Civ. P. 12(b)(6). (Doc #13). Indeed, the judgment on the pleadings standard is the same as that which applies to motions to dismiss under Fed. R. Civ. P. 12(b)(1) and (b)(6). *Lindsay v. Yates*, 498 F.3d 434, 438 (6th Cir. 2007). To the extent that leave is required to incorporate Direct Energy’s Motion to Dismiss, such leave is expressly requested.

As show in Direct Energy’s Motion to Dismiss, and KAA’s adoption of said motion, Plaintiff can establish no factual or legal basis to support his claim of violation of the TCPA against any defendant in this case. As such, dismissal of his claims are proper as a matter of law.

Respectfully submitted,

/s/ Gregory G. Guice

Gregory G. Guice (0076524)

REMINGER CO., L.P.A.

101 W. Prospect Ave., Suite 1400

Cleveland, Ohio 44115

P: 216-687-1311

F: 216-687-1841

Email: gguice@reminger.com

Counsel for Defendant KAA Energy, Inc.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 8th day of February, 2019, a copy of the above and foregoing document has been served via the court's electronic filing system to all counsel of record.

/s/ Gregory G. Guice
Gregory G. Guice (0076524)
Counsel for Defendant KAA Energy, Inc.